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AUTHOR Wilson, Charles F.
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ABSTRACT

To fulfill their basic role as instructional leaders of young people, teachers need the degree of freedom that tenure guarantees. To assure optimal educational experiences for these same young people, school directors and administrators need more effective ways than current tenure laws provide. To reconcile these needs, state legislatures should modify their tenure laws so that each tenured professional is thoroughly evaluated every three, four, or five years under a system of "cyclical, periodic, or renewable tenure." The system should feature contracts that incorporate basic accountability elements so that a builtin evaluation plan is to be used during and at the end of the contractual period. Dismissal during the contract period would require whatever tenure proceedings now exist; dismissal at the end of a contractual period would require adherence to due process only. This tenure modification would afford the necessary protection to teachers and at the same time enhance the general quality of our public educational programs by (1) requiring periodic comprehensive evaluations of teaching performance based on stated, contractual objectives, and (2) providing school directors and administrators with greater flexibility in dismissing the incompetent. (Author/IRT)

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SPEAKER: Charles F. Wilson, Superintendent of Schools, Allentown, Pennsylvani

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While considering such an historic and emotional topic as this, I tentatively concluded that everything has already been said about tenure and that as we read in Ecclesiastes, "There is no new thing under the sun." But as I studied the issues further, and contemplated the current controversies surrounding tenure, I modified my tentative conclusion and decided that the subject has become increasingly current and complex with the mushrooming movement of state legislatures to mandate collective bargaining for teachers (some 25 now have such laws and in another decade all 50 will probably have them) and with the growing tendency of courts at all levels to do everything possible to guarante "due process" to all Americans. There is, then, a great deal that can be stated and argued about this time-worn but nonetheless still popular topic.

Early in the 18th century, Alexander Pope, in his poem, The Temple of Fame, used the term "tenure" in a vastly different context from the way we use it here for our purposes. Pope stated, "How vain that second life in others' breath, Th' estate which wits inherit after death! Ease, health, and life for this they must resign, (Unsure the tenure, but how vast the fine!)"Pope was saying, I believe, that one's hold on fame after death is extremely uncertain but what a price we must pay to achieve that tenuous fame - life itself. "Unsure the tenure" indeed - today teacher tenure is almost a "sure thing." The price - a probationary period.

For example, Pennsylvania's 38-year old tenure law has afforded almost unbelievable job protection to some 100,000 professional employees in the Commonwealth's public schools. A recent study of Pennsylvania's experience during a 30-year period of the Tenure Act revealed that only 65 tenured teache had been successfully dismissed and only 38 tenured employees had been successfully demoted in salary or position. Imagine, only about 2 dismissals per year among some 100,000 employees and only slightly more than 1 demotion per year among the same group!

What is this phenomenon we call "tenure"? Stemming from the Latin tenere meaning "to hold," Webster defines the word in this way: "The act, right, manner, or term of holding something (as a landed property, a position, or an office.")

Two years ago I served on an AASA panel in Atlantic City to explore the topic, "Teacher Tenure or Poor Administration: What is the Problem?" At that time, our speaker, Kenneth Hansen, defined tenure in this way: "Tenure is an orderl

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legal dismissal procedure guaranteeing due process, not a law designed to protect all teachers and certain administrators - not a 'protective umbrella' or 'Linus' security blanket.'"

In effect, tenure is basically a guarantee of due process for professional employees in dismissal cases; it is the legal version of a fair dismissal policy. Perhaps terms like "continuing contract", "fair dismissal law", or"continuing status" would be less ambiguous and more easily understood by the general public and indeed by the profession itself.

But regardless of its name, teacher tenure has proliferated to such an extent that today 39 states and the District of Columbia have mandatory statewide tenure, 6 states have tenure in some areas, and only 5 states have no tenure at all.

Why has there been such a concerted effort during the past five years to repeal teacher tenure laws? In about half of the states during 1971 and 1972 tenure foes tried to repeal or dilute tenure laws. Although no teacher tenure laws have been revoked, a few states have toughened their laws. For example, New York State removed principals from tenure protection and extended the probationary period for teachers from 1-3 years to 5 years.

The critics of tenure today are so numerous and diverse that they constitute a powerful and persuasive force. Legislators, board members, administrators, general public, and even some teachers are attacking the concept and practice of tenure. Some contend that tenure is basically what is wrong with educatio and perhaps society itself. A State Senator remarked, "Eliminate the evil of tenure and you've taken a giant step toward solving the problems of education." If only it were as simple as that!

There are several critical questions that must be answered before an intellig and reasonable conclusion regarding tenure can be reached.

1. Is it true that tenure is no longer needed to protect "academic freedom"?
2. Does tenure cause teachers to become too comfortable and to settle for a dull, routine approach to the teaching-learning process?
3. Does tenure actually limit the number of teaching jobs available?
4. Does tenure keep salaries low, especially for veteran teachers?
5. Is tenure a special type of job security enjoyed only by teachers?
6. Does tenure really "tie an administrator's hands"?
7. Has tenure operated to protect the "incompetent"?
8. Is tenure obsolete in an era of collective bargaining and "due process"?
9. Does tenure discourage creative teaching?
10. Does tenure prevent administrators from exercising staff quality control?
11. Does tenure prevent a district from establishing an effective system of teacher accountability?

Unfortunately, I suspect that every one of these 11 questions, and others could certainly be added, can be answered in both the affirmative and the negative. Thus, they tend to illustrate dramatically the ambiquity of the entire tenure issue. Referring again to the AASA Panel Discussion in 1973, "Teacher Tenure or Poor Administration: What Is the Problem?", I concluded at that time that neither was totally innocent or completely guilty. I also convinced myself that teacher tenure and poor administration are only two of the multifarious dimensions of the apparent malaise afflicting all levels of American education.

The matter of job security is a puzzling issue. How secure should an educator feel, be the person teacher or administrator? Does security breed complacency and even contempt? I have never viewed security as a crowning or even noble goal. In 1965, as Supervising Principal of the Kutztown Area School District, I unwittingly achieved tenure - my secretary nonchalantly announced the great event to me one day and took me completely by surprise. My wife and I did not celebrate the occasion.

What price security? Two views of security are expressed by William Hazlitt and Dostoyevsky. Said the latter in 1880 in The Brothers Karamazov, "The true security is to be found in social solidarity rather than in isolated individual effort." Franklin Delano Roosevelt's Social Security system is a legislative fulfillment of that belief. But the renowned English essayist Hazlitt expressed a different view of security in his 1821 essay, On Living to One's Self, when he stated: "Even in the common affairs of life, in love, friendship, and marriage, how little security have we when we trust our happiness in the hands of others."

We all know teachers and administrators who feel secure and have every reason in the world for that feeling of security. We also know teachers and administrators who feel secure but have no reason whatsoever for that feeling of security. Then there are others who feel insecure but should not because they perform well. Still others feel insecure and have every reason for feeling insecure because of the quality of their performance. To some degree then, security becomes a relative condition.

Even teachers, the greatest benefactors of tenure, have been known to question its value. In a Scholastic magazine survey, teachers themselves - some eager, other passive, and still others the unwilling recipients of this legal, legislative largesse known as tenure - displayed their own uncertainty regarding the educational value of tenure when 23% responded that tenure diminishes the quality of education, 46% felt that tenure improves the quality of education, and 31% concluded that tenure has no effect on the quality of education. However, 61% favored making tenure provisions a part of negotiated union contracts.

In another survey of some 100 elementary teachers in 1970 and 1971, 62.1% thought that tenure protects the "drones" in teaching, and an astounding 51.7% said that they would oppose tenure if they were on a school board!

National exposure of the tenure issue has been greatly accelerated in the seventies with prestigious newspapers like the Wall Street Journal, the Washington Post, and the New York Times highlighting the dispute. Even the so-called Scranton Report in 1970 (Report of the President's Commission on Campus Unrest) supported the need for "academic freedom" for teachers but did not relate tenure to this ideal. Rather, the report concluded that to improve teaching, tenure should be "reconsidered".

The Newman Report in 1971 (Report on Higher Education) recommended that to achieve change in teaching in Higher Education it is necessary to "...revise standard tenure policies -- leading toward short-term contracts for at least some categories of faculty positions."

The historic purposes of American public education cannot be achieved in an environment that inhibits academic freedom. If some type of tenure is necessary to protect teachers' academic freedom from the potentially harmful acts of certain arbitrary and/or capricious board members, administrators, and community groups, I must speak in favor of tenure. The rentention of this critical academic freedom is unquestionably more important to the avowed goals of public education than the potential weeding out of some incompetent teachers, if indeed the repeal of tenure laws could achieve such a result.

I believe that teaching is a unique function in our society. Unlike teachers most American workers who are protected by civil service and union contracts do not run the daily risk of political or community disfavor. Their tasks are largely technical or mechanical in nature, not "human-oriented" with major emphasis on fostering critical and creative thinking in young people. Recent events in West Virginia, California, North Carolina and other states indicate that perhaps academic freedom has entered a new epoch of trial and tribulation.

In my mind, another compelling argument against the total revocation of teacher tenure is that lacking statutory protection, all teachers would likely be forced to join the local union recognized as the official bargaining agent. This, I contend, would result in a virtual "union shop", regardless of what it might be called. Teacher unions would become even more affluent and powerful than they are now. The voice of the dissident teacher or minor union leader might be forever muted. What I consider to be salutary divergent thinking and acting among teachers could well become a thing of the past.

Additionally, administrators and boards may have more to fear from the repeal of tenure laws than the teachers. For once tenure legislation disappears, school boards will likely be forced to bargain over job protection. Currently they can refuse because of the legal argument, i.e., the existence of mandated state tenure. Then, too, varying job protection clauses in teacher contracts from district to district may lead to far less teacher mobility, an outcome that I would deem debilitating for public education.

Certainly, a major weakness in the present tenure laws is the amount and kind of supervision needed to do an effective job of weeding out the incompetents. For example, in the Allentown School District, fourth largest in the Commonwealth, I estimate that we would need an administrative-supervisory staff 25-50% larger than our current staff to implement a program of truly effective supervision of instruction with its major objective that of improving the educational program and its minor objective that of eliminating weak teachers. Unfortunately, we are reducing administrative-supervisory staff rather than increasing it. In Allentown, we have 12% or 24% fewer administrators this year than last, depending on which professionals are considered to be administrators. We have learned the hard way in Pennsylvania that we must provide comprehensive anecdotal documentation involving more than one evaluator over a two-year period to be reasonably certain that the

dismissal of a tenured teacher will not be reversed by the Secretary of Education, to say nothing of the courts. This kind of supervision takes time and personnel. I suspect that what is often called "poor administration" is nothing more or less than inadequate administrative staffing.

Some contend that incompetent tenured teachers are frequently counseled out of positions. That may be true, but all too often the weak teachers, who properly have feelings of insecurity, hang on for dear life, seek and usually receive the assistance of the local union, and fight tooth and nail for their jobs. Because the onus falls on the district to prove a tenured teacher is incompetent, superintendents and principals typically become the accused in tenure hearings. Board members become the judges and jurors. Neither board members nor administrators relish these damnable roles. Although there must certainly be board members, administrators, and school district solicitors who lack the necessary skill and courage to proceed against offending teachers, I am persuaded that tenure hearings themselves combined with less than reassuring experiences recorded in case law loom so formidably imposing in the minds of school district officials that tenure has assumed a sanctity and omnipotence never intended by state legislatures.

Some pro-tenure people lament that tenure would be unnecessary in an ideal school situation, but alas, they say, Utopia is not here and therefore it is necessary. But administrators who have lived with tenure for a period of years might paradoxically assert that tenure is so imperfect in its current form that it could only work in a Utopian setting. Only in Utopia could tenure perform the seemingly impossible dual function of carefully protecting the rights of teachers on one hand and skillfully weeding out the undesirables on the other hand. An ingenious paradox?

There is sufficient truth in what Charles Elliot, president of Harvard University, had to say about tenure in 1875 to give pause to those who would immediately and categorically eliminate all tenure laws: "Permanence of tenure and security of income are essential to give dignity and independence to the teacher's position." But unhappily, the experience with tenure laws that school directors and administrators have had over the years in many states would lead to the conclusion that poor administration--lack of courage and skill on the part of school district officials--is not the only and perhaps not even the major culprit in countless cases of tenure abuse.

Although the perceptive person would probably agree with the observation that the tenure issue should not be decided on political grounds, nevertheless the realist is forced to conclude that since tenure is a legislative creature, any changes in tenure must be achieved in the political arena from which it emerged. It is a simplistic but fundamental truth concerning American public education that not all of the people charged legislatively and administratively with running the schools are of "abiding good faith." But, conversely, neither do all of those people employed to instruct our youth perform their duties effectively and with "pure motives." Who, then, among us, being of sound mind, can deny that, on the one hand, teachers need a degree of freedom that tenure guarantees to fulfill their basic role as instructional leaders of our young people, but on the other hand, school directors and administrators need more effective ways than our current tenure laws provide to assure optimal educational experiences for these same young people?

As I recommended to the Pennsylvania Citizens' Commission on Basic Education in November, 1973, I would urge state legislatures to modify their tenure laws so that each tenured professional is thoroughly evaluated every 3, 4, or 5 years under a system called "cyclical, periodic, or renewable tenure" featuring contracts that would incorporate basic accountability elements so that there would be a built-in evaluation plan to be used during and at the end of the contractual period. Dismissal during the contract period would require whatever tenure proceedings now exist in those states with tenure. Dismissal at the end of a contractual period would require adherenc to due process but not to any tenure law per se.

I am persuaded that this tenure modification would afford the necessary protection to teachers and at the same time enhance the general quality of our public educational programs by (1) requiring periodic comprehensive evaluations of teaching performance based on stated, contractual objectives, and (2) providing school directors and administrators with greater flexibili in dismissing the incompetent.

The case for and against teacher tenure has been argued in the public arena for years. It is high time that our legislators render a verdict in favor of better education for all American youth. Thank you.

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